

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 09-0015
)	
Martin L. Clapp and)	
Leona Louise Clapp,)	
)	
Respondents)	Consent Decision
)	and Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (hereafter "Act" or "AWA"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondents admit the jurisdictional allegations in paragraph I of the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Martin L. Clapp is an individual with a business mailing address of Route 2, Box 295, Butler, Missouri. This address is hereinafter referred to as Site 1.

2. Respondent Leona Louise Clapp is an individual with a business mailing address of 1105 North Orange Street, Butler, Missouri. This address is hereafter referred to as Site 2.

3. At all times material herein, the respondents were licensed and operating as a dealer as defined in the Act and the regulations, and respondents were responsible for the activities at both sites.

4. Respondent Martin L. Clapp surrendered his AWA license in 2008.

Conclusions

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder, and in particular, shall cease and desist from:

(a) Failing to construct and maintain housing facilities for animals so that they are structurally sound and in good repair in order to protect the animals from injury;

(b) Failing to construct and maintain housing facilities for animals so that surfaces may be readily cleaned and sanitized or be replaced when necessary;

c Failing to maintain primary enclosures for animals in a clean and sanitary condition;

(d) Failing to store supplies of food and bedding so as to adequately protect them against contamination;

(e) Failing to provide sufficient space for animals in primary enclosures;

(f) Failing to provide for the regular and frequent collection, removal, and disposal of animal and food wastes, debris, garbage, other fluids and wastes, in a manner that minimizes contamination and disease risks;

(g) Failing to provide animals kept outdoors with shelter from inclement weather;

(h) Failing to provide animals with food of sufficient quantity and nutritive value to meet their normal daily requirements;

(i) Failing to keep food and water receptacles clean and sanitized;

(j) Failing to establish and maintain an effective program for the control of pests;

(k) Failing to individually identify animals, as required;

(l) Failing to maintain records of the acquisition, disposition, description, and identification of animals, as required;

(m) Failing to utilize a sufficient number of trained employees to maintain the prescribed level of husbandry practices; and

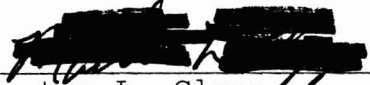
(n) Failing to establish and maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine.

2. Respondents are jointly and severally assessed a civil penalty of \$2,000 of which all except for \$500 is suspended provided that the Respondents comply with the Act, the regulations issued pursuant to the Act and the terms contained in this consent decision. The remaining civil penalty of \$500 shall be paid by certified check, cashier's check or money order made payable to the Treasurer of United States and the check or money order shall include the notation "AWA Dkt. No. 09-0015". The failure to pay the civil penalty violates the terms of this consent decision.

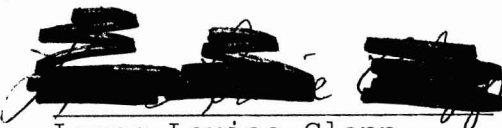
3. Respondent Leona Clapp shall surrender her license to the Animal and Plant Health Inspection Service. Respondents are permanently disqualified from obtaining a license under the Act and the regulations.


The provisions of this order shall become effective on the 30th day after service of this decision on the respondents.

Copies of this decision shall be served upon the parties.



Martin L. Clapp
Respondent


Dale Ingram
Attorney for Respondents


Leona Louise Clapp
Respondent


Sharlene Deskins
Attorney for Complainant

Done at Washington, D.C.
this 30th day of December, 2009


Administrative Law Judge

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